

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARTIN JOSEPH,

Plaintiff,

vs.

STATE OF NEVADA, ex rel NDOC, *et al.*,  
Defendants.

Case No.: 3:21-CV-00289-RCJ-CSD

ORDER ADOPTING AND ACCEPTING  
REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE  
(ECF NO. 40)

Before the Court is the Report and Recommendation of United States Magistrate Judge (ECF No. 40<sup>1</sup>) entered on February 16, 2023, recommending that the Court: (1) Allow Plaintiff to proceed with the First Amendment Free Exercise and Establishment Clause, Religious Land Use and Institutionalized Persons Act (RLUIPA), and Fourteenth Amendment Equal Protection Clause Claims against defendants in the Second Amended Complaint (SAC) (ECF No. 20); (2) Dismiss Nevada Department of Corrections (NDOC) and the Religious Review Team (RRT) and the claims asserted against them in the SAC; (3) Dismiss the conspiracy and due process claims from the SAC. Joseph filed his Objections to Magistrate Judge's Report and Recommendation (ECF No. 42) on February 21, 2023.

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<sup>1</sup> Refers to Court's docket number.

1 This action was referred to Magistrate Judge Denny under 28 U.S.C. §  
2 636(b)(1)(B) and Local Rule IB 1-4 of the Rules of Practice of the United States District  
3 Court for the District of Nevada.

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5 The Court has conducted its *de novo* review in this case, has fully considered the  
6 pleadings and memoranda of the parties including the objections to the Report and  
7 Recommendation and other relevant matters of record pursuant to 28 U.S.C. §  
8 636(b)(1)(B) and Local Rule IB 3-2.

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10 **IT IS HEREBY ORDERED** that United States Magistrate Judge Denny's Report  
11 and Recommendation (ECF No. 40) shall be **ADOPTED and ACCEPTED**.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court will file the proposed  
13 Second Amended Complaint (ECF No. 20) and send Plaintiff Joseph a courtesy copy.  
14 The Second Amended Complaint is the operative complaint.

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16 **IT IS FURTHER ORDERED** that the First Amendment Free Exercise and  
17 Establishment Clause, Religious Land Use and Institutionalized Persons Act, and  
18 Fourteenth Amendment Equal Protection Clause Claims will proceed against  
19 defendants in the Second Amended Complaint.

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21 **IT IS FURTHER ORDERED** that the Nevada Department of Corrections and the  
22 Religious Review Team and the claims asserted against them in the Second Amended  
23 Complaint are **DISMISSED**.

24 **IT IS FURTHER ORDERED** that the conspiracy and due process claims  
25 asserted in the Second Amended Complaint are **DISMISSED**.

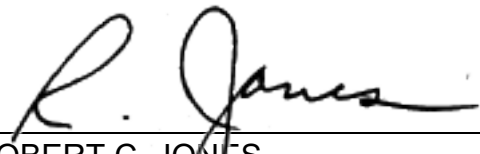
26  
27 **IT IS FURTHER ORDERD** that within fourteen (14) days of the date of entry of  
28 this order, the Attorney General's Office shall file a notice advising the Court whether it

1 will accept service for defendant Snyder. If the Attorney General's Office cannot accept  
2 service for Snyder, it shall file under seal, but shall not serve the Plaintiff with the last  
3 known address for Snyder. If the last known address is a post office box, the Attorney  
4 General's Office shall attempt to obtain and provide a last known physical address. If  
5 service cannot be accepted for Snyder, Plaintiff shall file a motion requesting issuance  
6 of a summons and service on Snyder. Service of Snyder must be accomplished within  
7 ninety (90) days of the entry of this order.  
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9 **IT IS FURTHER ORDERD** that the Attorney General shall file an answer or other  
10 responsive pleading to the Second Amended Complaint on behalf of any defendant for  
11 whom it has accepted service within forty-five (45) days of the entry of this order.  
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15 **IT IS SO ORDERED.**  
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18 DATED this 14<sup>TH</sup> day of March 2023.  
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23 ROBERT C. JONES  
24 Senior United States District Judge  
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